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**FEDERAL GOVERNMENT ACQUISITION OF  
REAL PROPERTY IN THE STATE**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley T. Johnson**

**This act modifies the real estate code to prohibit federal government acquisition of land in the state for any purpose other than enumerated purposes without consent of the Legislature.**

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**57-24-101**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **57-24-101** is enacted to read:

**57-24-101. Federal government acquisition of real property in the state -- Consent given only for enumerated purposes.**

(1) The consent of the Legislature is given in accordance with United States Constitution Article I, Section 8, Clause 17, to the acquisition by the United States of title to any real property in this state acquired for the erection of:

(a) forts;

(b) magazines;

(c) arsenals;

(d) dock-yards; and

(e) other needful buildings.

(2) The United States shall not acquire title to real property in this state for any purpose other than those enumerated in Subsection (1) without the consent of the Legislature.

**\*HB0189\***

**Legislative Review Note**  
**as of 1-10-01 1:07 PM**

This legislation raises the following constitutional or statutory concerns:

Subsection (2) of this bill raises federal constitutional issues under the United States Supreme Court's interpretation of Article I, Section 8, Clause 17 of the United States Constitution. The United States Supreme Court has consistently held that under the power of eminent domain, the United States can acquire real property within the borders of states for any legitimate purpose including those not specifically enumerated in Article I, Section 8, Clause 17 of the Constitution, even without the consent of the state legislature. *See, Collins v. Yosemite Park, 304 U.S. 518 (1938), Kleppe v. New Mexico, 426 U.S. 529 (1976).*

**Office of Legislative Research and General Counsel**